

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENWOOD DIVISION**

Schilli Distribution Services, Inc.,)	Civil Action No.: 8:16-cv-01851-DCC
)	
Plaintiff,)	
)	Order on Motion by Defendants
v.)	Benda, B.W.G., and Arete for
)	Joinder of Thomas R. Schilli
Steve Gilliam, B.W.G., Inc., KCB)	
Group, Inc., Arete Logistics, Inc., and)	
George Benda,)	
)	
Defendants.)	

Defendants George Benda, B.W.G., Inc. and Arete Logistics, Inc. (“Benda Defendants”) moved pursuant to Rules 17 and 19, FRCP, to join Thomas R. Schilli as a Plaintiff (ECF 165) in this case, and the motion was before the court by telephone conference hearing on January 4, 2019. The motion was based on an arrangement whereby (1) Mr. Schilli is paying the legal fees incurred by Schilli Distribution Services, Inc. (“SDS”) in this case and (2) the benefits of this case accruing to him under a stock sale of SDS and other Schilli companies to Daseke, Inc., an arrangement to which Mr. Schilli testified on August 11, 2017.

Plaintiff Schilli Distribution, Inc. is the only party which objected to the motion (ECF 174). Defendant Steve Gilliam has been dismissed from the case by settlement and Defendant KCB Group, Inc. did not file a response to the Benda Defendants’ motion. However, in the conference call hearing on January 4, 2019, KCB’s counsel advised the Court that KCB had no objection to Mr. Schilli being joined as a party to this action. KCB further advised the court that it did not want Mr. Schilli substituted as a party because any arrangement for Mr. Schilli’s assumption of alleged liabilities owed to KCB on KCB’s counterclaims was a matter between SDS and Mr. Schilli.

During the referenced conference call hearing, counsel for SDS advised that Mr. Schilli did not object to being joined as a party to the suit since he was entitled to receive any settlement funds or other amounts collected by SDS, and he had liability to SDS for any judgment recovered by KCB on its counterclaims against SDS. Therefore, the Court determines that Mr. Schilli should be joined as a party to the case based on his entitlement to any recovery and liability to SDS for any judgment entered against SDS on KCB's counterclaims. Further, instead of requiring all parties to re-plead their cases, this order shall become part of the pleadings in the case.

IT IS SO ORDERED.

s/Donald C. Coggins
United States District Judge

January 16, 2019
Spartanburg, South Carolina

WE CONSENT:

s/ Thomas W. Bunch II
Thomas W. Bunch, II (Fed. ID No. 01597)
BUNCH LAW LLC
141 Pelham Drive
Suite F, Box 284
Columbia, SC 29209
Telephone: (803) 939-5333
Email: tbunch@bunchlawllc.com
Attorney for Plaintiff Schilli Distribution Services, Inc.

CALLISON TIGHE & ROBINSON, LLC

s/ Louis H. Lang, Esq.
Louis H. Lang (Fed. ID No. 00240)
1812 Lincoln Street, Suite 200
Post Office Box 1390
Columbia, South Carolina 29202-1390
Telephone: (803) 404-6900
Email: LouisLang@CallisonTighe.com
Attorneys for Defendants George W. Benda,
BWG, Inc., and Arete Logistics, Inc.

s/ M. Alan Peace, Esq.
M. Alan Peace, Esq. (Fed. ID No. 0319)
Harrell, Martin & Peace, P.A.
135 Columbia Avenue
P.O. Box 1000
Chapin, South Carolina 29036
Telephone: (803) 345-3353
apeace@hmp-law.com
Attorneys for Defendant KCB Group, Inc.